

Episode 45

Considering the zeal with which Hadhrat Shaykh Abdul Fattah (may Allah's mercy be upon him) had tried to call me to Riyadh, I was apprehensive that due to my excusing myself, traces of displeasure may have remained in his heart. However, the letter that he sent after his return to Riyadh was filled with the same love as before, rather even more. The heart desires to reproduce this honourable letter in its entirety here:

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

إلا الأخوين الحبيبين فضيلة الشيخ محمد رفيع وفضيلة الشيخ محمد تقي حفظهما المولي ورعاها وأكرمها بعونه وإمداده وفضله وإسعاده.

من أحبها: عبد الفتاح أبو غدة

السلام عليكم ورحمة الله وبركاته

وبعد فأحمد الله تعالى إليكم، وأرجو أن تكونوا أتم وسائر الأهل الكرام بخير من الله ونعمة.

فارقتكم وقلبي عندكم مرهون، والروح لديكم موثوق، فقد لقيت في رحابكم الأخوة والإيناس، والإفادة والإكرام، فكنتم كما قيل:

ولا عيب فيهم غير أن نزيلهم يعاب بنسيان الأحبة والوطن

وقد كان والله ذلك، فلم أكن يخطر ببالي أحد من الأهل كبيرهم أو صغيرهم، وكأنتي في منزلي وبين أسرتي وأولادي، يغمرني هذا الجو الكريم المشبع بالحب والإخاء، والمكان المقصور عن صنوف الإيذاء، فلله دَرَكٌ، ولله أتم، ورحم الله سيدنا الوالد سماحة المفتي الشيخ محمد شفيع، فقد كان ظله علي وارفاً في حياته، وبعد انتقاله إلى دار الرضوان إن شاء الله تعالى.

وأذكر التاريخ أنه أول شيخ من كبار الأفاضل علماء ديار باكستان والهند، حظيت بخدمته ودخلت في قلبي محبته، فقد كان رحمه الله تعالى أنس العقل والقلب والروح جميعاً، وكان لدي من الشوق والثوق إلي سادتي علماء الهند وباكستان ما الله به علم، وذلك لكثرة ما تذوقت من آثارهم وسعدت بأفكارهم، فكان ذلك كما قيل:

أتأني هواها قبل أن أعرف الهاوي فصادف قلباً خالياً فمكنا

وكما قيل أيضاً:

مناسبة الأرواح بيني وبينها وإلا فأين التُّرك من ساكني نجد؟

فالحمد لله الذي أكرمني بخدمته والتشرف بصحبته أول ما شرف الشام وديارها، فكان ذلك من التَّعمة المسوقة إلى شائقها، وإن كانوا غير مستحيين، وإذا اختاره الله تعالى إلى جواره في مقعد الصدق عنده إن شاء الله، فقد سُدَّتْ بأنجاله وآله وفي طليعتها الأخوان الهيامان أتم، فالحمد لله على سعة الدُّوحة الفاضلة، وبقاء ظلِّها الوارف العارف فيكم، وزادكم الله من فضله وعونه، وحقق فيكم الآمال والمقاصد، كما كان يحب ساحة مولانا الوالد، نوار الله مرقده، وتقبل منه صالح عمله، آمين. وتحياي للسادة الأساتذة والطلبة الذين سعدت بهم جميعاً.

وإني أكتب لكم هذه الكلمات قبل دخولي في غمرات الأعمال المترقبة لي، وأجدد لفضيلتكم شكري وتحياي، وللأنجال والأسرة الكريمة كذلك، وأستودعكم الله إلى لقاء قريب حبيب بإذن الله، والسلام عليكم ورحمة الله وبركاته.

الرياض الأحد ٢/ من ذي القعدة ١٣٩٩هـ

أخوكم المفتقر إلى دعواتكم عبد الفتاح أبو غدة

عنواني: الرياض - كلية أصول الدين أو الرياض ص.ب-٣٥٥٣

After conveying *Salam* to us two brothers and praising Allah and sending prayers and salutations upon the Messenger of Allah (ﷺ), he wrote:

“I departed you all in such a state that my heart was pledged to you and my soul was bonded to you, because I attained brotherhood, affection, benefit and honour from your environment. And you proved to be what an Arab poet says:

ولا عيب فيهم غير أن نزليهم

يعاب بنسيان الأحبة والوطن

There is no flaw in them except that their guests,
are reproached for forgetting their families and homes

The truth is that this happened to me; during my stay at your place, I did not think of anyone from the household, neither the young ones nor the old ones, and it felt as if I were staying in my own home with my own family and children. I remained immersed in that graceful aura which is saturated with love and brotherhood and is free from all kinds of harms. Thus, your praise is from Allah alone, and you are His alone. And may Allah Most High shower His mercies upon our master, respected father Shaykh Hadhrat Mufti Muhammad Shafi, for his shade remained upon me during his lifetime, and even after he was moved to the house of Allah's mercy InshaAllah.

And I remember history, that he was the first of the elder and senior-most scholars of Pakistan whom I was honoured to meet, and whose love was infused in my heart. This is because, may Allah Most High shower him with His mercies, he was a source of intimacy for the intellect, the heart and the soul all at once. And Allah alone knows my zeal and special taste for (meeting) my elders, i.e the scholars of India and Pakistan, and this was borne out of the pleasure I enjoyed from their legacies and the blessings I attained from their thoughts. And this is as an Arab poet says:

أتاني هواها قبل أن أعرف الهاوي

فصادف قلباً خالياً فتمكّنا

Her love seized me before I ever knew love

It found an empty heart wherein it took hold

And similar to what another poet says:

مناسبة الأرواح بيني وبينها

وإلا فأين التُّرك من ساكني نجد؟

Our hearts already had an attachment from before

Otherwise, how far apart are residents of Turkey and Najd

I thus thank Allah Most High that when he (Hadrath Mufti Muhammad Shafi) bestowed the honour of his visit to Syria, it was a blessing that arrived at the doorstep of those who were desirous of it without them deserving it, and when Allah Most High (InshaAllah) chose him to be near His *Maq'ad Sidq*, He granted me good fortune through his sons and family. And the most distinguished of them are you two erudite and honourable brothers. Thus, thanks is to Allah alone that this dense tree of excellence is so vast that its deep shades extend amidst you. May Allah Most High increase His special favours and assistance to you, and may those hopes and goals be fulfilled through you which Hadrath Maulana (may his grave be enlightened) was desirous of, and may He accept his good deeds. And my *Salam* to all those teachers and students whom I was delighted to meet.”

Hajj of 1399 AH

The same year, the Council of Islamic Ideology received an invitation from Hadrath Shaykh Abdul Aziz bin Baz (may Allah's mercy be upon him) which stated that he wished to invite some members of the Council to perform Hajj under the auspices of his "*Hay'ah at-Taw'iyah al-Islamiyyah*" as his guest. This was, in fact, an expression of his pleasure at the work done by the Council, and a great occasion of good fortune for all of us. Members of the Council thus welcomed it and Justice Afzal Cheema, Justice Salahuddin, Maulana Mufti Sayahuddin, the Secretary of the Council respected Muzaffar Ashraf and I departed together for Hajj in early Dhul Hijjah. My wife had not performed her obligatory Hajj by that time so I took her along at my own expenses, and Justice Afzal Cheema and Justice Salahuddin also travelled with their wives, and in this manner a caravan of eight people was formed.

Since this trip was taking place at the invitation of Hadrath Shaykh Abdul Aziz bin Baz (may Allah's mercy be upon him), arrangements for receiving us, accommodation, etc. were to be done from his side. However, there was no one to receive us when we landed at Jeddah airport. We could also not contact our hosts by phone at that time. (It was later learned that they made a mistake regarding our flight timing). It was night time and arranging for night stay for eight people, among them ladies, seemed difficult. In the end, respected Muzaffar Ashraf suggested to spend the night

at the house of a friend of his who resided in *Hayy al-Balad*, near “*Imarah al-Malikah*” (Queen’s Building). We thus arrived there from the airport.

His friend’s apartment was located on the tenth floor and the building did not have a lift. I had a suitcase with me which I had foolishly filled with several boxes of Pakistani food, due to which it had become very heavy. I still remember the strenuous toil of heaving it up ten floors of old-style high stairs while being in the state of Ihram. Anyway! The night was somehow spent there. When we telephoned our hosts of Makkah Mukarramah in the morning, they apologized for the mix-up and informed that they were sending a large wagon to Jeddah to bring us all to Makkah Mukarramah. At last, the wagon arrived and we departed on it for Makkah Mukarramah and performed Umrah. By that time, the guest house of the Muslim World League had been constructed in Mina. After Umrah, our accommodation was arranged there. After spending a night there, we wished to stay near the Masjid ul-Haram.

When we met Hadhrat Shaykh Abdul Aziz bin Baz (may Allah’s mercy be upon him) the next morning, he benevolently expressed his happiness at the work done by the Council of Islamic Ideology, and thereafter himself said: “We are arranging for your stay near the Masjid al-Haram.” We were thus moved to a hotel near Bab al-Umrah of Masjid al-Haram called Funduq al-Ansar, and we stayed here until the end of our Hajj. My elder brothers respected Muhammad Razi Usmani (may Allah’s mercy be upon him) and Hadhrat Mufti Muhammad Rafi Usmani (may his shade be extended) were also here for Hajj together with their families, and were staying in Madrasa Sawlatiyya. In this manner, I was blessed to spend a memorable time with all of them during Hajj.

During this time, Hadhrat Shaykh Abdul Aziz bin Baz (may Allah’s mercy be upon him) had also planned for us to meet distinguished scholars of the time. To this end, we met the Mufti of that time Hadhrat Shaykh Abdul Malik (may Allah’s mercy be upon him) and Shaykh Abdullah bin Humaid (may Allah’s mercy be upon him), who was the father of the current Imam of Masjid al-Haram Shaykh Salih bin Abdullah bin Humaid, as well as numerous judges, and while expressing their warm sentiments for Pakistan, they all said: “We have great hopes and expectations from Pakistan, the current government as well as the Council of Islamic Ideology”. Several of them also

asked: “Which sources do you refer to for the work being done in the Council?” When details of those sources were mentioned, they expressed satisfaction and happiness.

This was the Hajj of 1399 AH. While we had returned home before the start of Muharram, respected elder brothers began the year 1400 AH in Makkah Mukarramah itself. And it was while they were there that the regrettable incident of Juhayman and his companions seizing the Masjid al-Haram took place. My elder sister-in-law was inside the Masjid al-Haram at that time and came out with much difficulty.

Qatar Conference

After returning from Hajj, in Muharram 1400 AH (circa November 1979 CE), Justice Afzal Cheema and I travelled to Doha to take part in an international conference at the invitation of Qatar’s Ministry of *Awqaf*; we were in Qatar when the aforementioned incident in Masjid al-Haram took place. A brief account of that conference has been published in my collection of travelogues “*Jahan-e-Deedah*”.

Demise of My Respected Mother

It was in the same year that the great personal tragedy of my respected mother’s (may Allah’s mercy be upon her) demise occurred, who had been bedridden for a long time. While every child is a darling of their mother, I have written while describing my childhood that my mother treated me with extraordinary pampering. Even by the age of eleven or twelve, I would eat from her hands. She was a personification of love and affection for me even during her lengthy illness. She was suffering from stomach illness since years and her afflictions increased after the demise of our respected father (may Allah’s mercy be upon him). She was also admitted to the hospital several times, and eventually reached her appointed time on the 23rd of Rajab 1401 AH, equivalent to 28 May 1981 CE. *Inna Lillahi Wa Inna Ilayhi Raji’oon*. I have written about her in some detail in *Nuqoosh-e-Raftagan*. May Allah Most High grant high positions in Jannah al-Firdaus to her. After she left, that shade over the head was also lost which provided support in every difficulty, and through whose prayers Allah Most High has bestowed His grace and favour at every step of life.

Shortly after her demise, my newborn baby girl, whom he had named Juwairiah, also passed away due to jaundice. *Inna Lillahi Wa Inna Ilayhi Raji'oon.*

Appointment in the Federal Shariat Court

One issue that was discussed during the first period of my membership in the Council of Islamic Ideology was that the practical process for implementing Islamic laws that the Constitution had laid down was for the Council of Islamic Ideology to draft proposals and present them to the Parliament, and that the Parliament would then make the final decision regarding them. In this manner, under the Constitution, the Council of Islamic Ideology was merely a recommendatory institution; it did not possess any powers to change the laws by itself. Consequently, before the government of President Zia-ul-Haq, its proposals were never given any practical importance, rather its proposals would not even be presented in Parliament. In this manner, the implementation of Islamic laws would be postponed, theoretically, by seven years, but practically for an indefinite period of time.

For this reason, we had generally agreed to propose a Constitutional Amendment on behalf of the Council. According to this, if the question arose as to whether a particular law is in conformance to the Quran and Sunnah or not, the judge of a higher court could hear the opinions of the scholars and experts of law and thereafter if they reached the conclusion that that law is contrary to the teachings of Quran and Sunnah, they would have the authority to declare it null and void. In this manner, implementation of Islamic laws would proceed from two directions. In our opinion, this Constitutional Amendment was entirely appropriate, and the amendments that the 33 scholars had proposed to the Nizamuddin Committee in 1953 also stated that a separate bench should be formed in the Supreme Court for this purpose. However, those amendments also stated that expert scholars of Islamic laws should also be appointed as judges in this bench. We thus also proposed this at this point. This was debated over for quite a long time and several drafts of this proposed amendment were also prepared. Our stance was that leaving the decision of whether a law is in accordance with the Quran and Sunnah or not entirely to those judges who have not acquired education and training in the sciences of the Quran and Sunnah would be dangerous. On this point, lengthy discussions took place in the Council and the recommendation

that was ultimately drafted mentioned this proposition of ours as a side-note, with a remark that this point was differed upon.

After the formation of the new Council, this amendment was acted upon by way of making an Amendment to the Constitution through which a new court by the name of Federal Shariat Court was established. This Court had the authority to hear the petition of any citizen who asserted a particular law to be contrary to the teachings of the Quran and Sunnah, and if the court concurred, it could declare that law null and void from an appointed date. No mention was made of including scholars in relation to the establishment of this court. However, scholars could be presented as advisors to the court. The selection of judges for this court also did not require any affinity for Islam. The result was that when this court began proceedings, bizarre verdicts were issued from it, and on the 21st of March 1981, it declared that part of the Hudood Ordinance as being contrary to the teachings of the Quran and Sunnah which appointed *Rajm* (stoning) as the punishment for a married adulterer. Besides this, one judge even tried to raise doubts with regards to the prohibition of alcohol.

When these kinds of verdicts came out, a strong opposition against them stirred up in the entire country and the demand to appoint such judges in this court as possessed the correct knowledge of the Quran and Sunnah gained momentum. This demand was re-iterated through statements and articles in newspapers as well as public rallies. May Allah Most High recompense Hadhrat Maulana Mufti Zainul Abidin and Hadhrat Maulana Hakeem Abdur Raheem Ashraf (may Allah's mercy be upon them both), for they convened a gathering of 45 scholars belonging to all schools of thought, and at their order I prepared a thoroughly referenced paper which was presented before the 45 scholars in Rawalpindi, and which all of them signed after minor amendments.

Those two elders would regularly meet President Muhammad Zia-ul-Haq to discuss the religious issues of the country and he would also highly value their sincere opinions. In the present circumstances, they thus organized a meeting of these 45 scholars with the late President. I was also among them. This paper, which asked for scholars to be appointed as judges in the Federal Shariat Court and the Shariat Appellate Bench of the Supreme Court, was presented to the respected President. After lengthy discussions, the respected President accepted this request,

but said to the attendants: “You unanimously present the names of those scholars who could be appointed as judges in the Federal Shariat Court”. In this manner, the responsibility of proposing the names of the scholars was placed on those 45 scholars themselves.

It was a courteous habit of President Muhammad Zia-ul-Haq that he would see off visitors until their cars. Accordingly, at the end of this meeting, when he came out to bid us goodbye, he took me aside and said: “I am going to entrust a new responsibility to you. Be prepared for it.” Saying this, without giving me any opportunity to reply, he went back to the others to see them off. While he had not described what this “responsibility” would be, I guessed that he was considering sending me to court. Since he had put the responsibility of nominating the names of judges on those 45 scholars, the two above-mentioned scholars re-convened a meeting of those scholars in Rawalpindi itself. However, I somehow excused myself from attending this gathering and sent my proposed names of scholars to them who I considered to have scholarly ability as well as familiarity with the English language. Of the names I proposed, I remember Maulana Abdul Quddoos Qasimi (may Allah’s mercy be upon him), graduate of Darul Uloom Deoband, and respected Mufti Shuja’at Ali Qadiri of the Bareilvi school of thought. After passing my nominations to Hadhrat Mufti Zainul Abidin and Hadhrat Hakeem Abdur Raheem Ashraf, I returned to Karachi. I was apprehensive that the respected President and the scholars may insist upon me to accept the position of a judge, but one major obstacle for me, besides the sense of unworthiness for this duty, was that I could also not leave Darul Uloom, while after being appointed a judge, I would have to live in Islamabad. Secondly, I was also unsure as to whether I could actually render any effective services as a judge. After returning to Karachi, I did not seek any information regarding whose names were decided in the meeting of the scholars in Rawalpindi. Several days had passed that meeting when one day it was suddenly broadcast on radio and TV that the Federal Shariat Court was reconstituted and that three scholars were appointed as judges in it through a Constitutional Amendment. One of them was myself, the other two being respected Pir Karam Shah (may Allah’s mercy be upon him) and respected Malik Ghulam Ali (may Allah’s mercy be upon him), who was a special aide of Maulana Sayyid Abul A’la Mawdoodi and with whom I had a debate through the pen on the topic of “*Khilafat o Mulookiyat*”. I plunged into a serious quandary at hearing this news. This lowly one used to have phone discussions with the late

President on various topics, and sometimes he would also call, but on this occasion, he did not contact me before making the announcement. I have mentioned above my difficulties due to which it was very difficult for me to accept this offer, so I thought I would call the respected President and excuse myself. On the other hand, I also realized that a good situation had arisen after much effort. Completely distancing oneself from it could jeopardize the original objective. I was in this dilemma when Hadhrat Mufti Zainul Abidin and Hadhrat Hakeem Abdur Raheem Ashraf both came to Darul Uloom. They told: "The gathering of scholars in Rawalpindi had unanimously nominated your name, and it is on the basis of this that the respected President has made the announcement. Now you must fulfill this duty." When I presented my above-mentioned difficulties, they said: "In our opinion, it is obligatory for you to accept this position. And if you excuse yourself, then you must retract your demands for the implementation of Islamic laws".

I was anyway embarrassed at those elders having to personally come to Darul Uloom, and their instructions had weight as well. I thus reported the entire situation to my Shaykh Hadhrat Arifi (may his secret be sanctified). Hadhrat gave an advice that put the heart to rest. He said: "Sha'ban holidays are approaching in which the academic year in Darul Uloom will end. Thereafter you will have holidays until the end of Shawwal. It is not appropriate for you to reject the offer of taking up this position at this time. Therefore, go there with the intention of staying for two months, and during this time, try to convince the government to appoint another reliable scholar in your place." I thus decided to go to Islamabad relying solely on Allah, and after arriving there in May 1981, took the oath as a member of the Federal Shariat Court together with Hadhrat Pir Karam Shah and respected Malik Ghulam Ali. I was thirty-six years old at the time and was perhaps the youngest judge in higher courts.